



UNITED STATES PATENT AND TRADEMARK OFFICE

cn

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,733	09/24/2001	Gaute Munch	2388-797	7816
29540	7590	10/17/2003		
PITNEY, HARDIN, KIPP & SZUCH LLP 685 THIRD AVENUE NEW YORK, NY 10017-4024				
			EXAMINER CAPRON, AARON J	
			ART UNIT 3714	PAPER NUMBER 9
DATE MAILED: 10/17/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,733

Applicant(s)

MUNCH ET AL.

Examiner

Aaron J. Capron

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is a response to the Amendment received on August 8, 2003, in which claims 1 and 6 were amended and claims 14-26 were added. Claims 1-26 are pending.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haugerud et al. (U.S. Patent No. 4,712,184; hereafter "Haugerud") in view of Chainani et al. (U.S. Patent No. 5,724,074; hereafter "Chainani"). This holding is maintained from prior action for cited claims, as amended, which is incorporated herein. Response to Applicant assertions is provided below and incorporated herein.

Referring to claim 1, Haugerud discloses a microprocessor controlled toy building element comprising a microprocessor which can execute instructions in the form of a program stored in a memory (abstract); a display integrated in the toy building element (6:57-59), coupling means for coupling with building elements that can be moved by maneuvering means, the maneuvering means being controllable in response to the instructions (abstract),

Art Unit: 3714

characterized in that the display is configured to direct patterns of movements and activated by a user for programming the microprocessor (abstract) and by signaling a pattern of movement followed by the toy building element, but does not disclose that the display incorporates icons to maneuver the toy building element. However, Chainani discloses a home computer in connection with a programmable toy that maneuvers the programmable toy by icons displayed on the personal computer (Figure 7) in order to allow children to program a toy microprocessor (1:57-64). The two references are analogous since both refer to controlling a programmable toy through the use of a personal computer. One would be motivated to combine the references in order to allow Haugerud's system to be more acceptable for a young child to program and maneuver the remote control device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the maneuvering icons of Chainani into the device of Haugerud in order to be more acceptable for a young child to program and maneuver the remote control device.

Referring to claim 2, Haugerud and Chainani disclose the type of icons is configured to illustrate modifications of patterns of movements (Chainani: Figure 7).

Referring to claim 3, Haugerud and Chainani disclose that the toy comprises means for generating a first set of instructions comprising parameters upon activation of a first type of icons which instructions and/or parameters may be modified by activation of a second type of icons (Chainani: Figure 7- item 158).

Referring to claim 4, Haugerud and Chainani disclose the microprocessor is adapted to receive signals from electrical and/or electronic units.

Referring to claim 5, Haugerud and Chainani disclose that a first group of rules is conditioned by a first group of signals and that a second group of rules is conditioned by a second group of signals (Chainani: Figure 7- item 158- "Move L90, 3, @60; Lights On;").

Referring to claim 6, Haugerud and Chainani disclose instructions corresponding to one icon implement one rule by controlling the maneuvering means in response to signals from electrical and/or electronic units.

Referring to claim 7, Haugerud and Chainani disclose the microprocessor executes rules in the form of instructions which control units, the rules being conditioned by a plurality of signals (Chainani: moving forward and changing the direction of the wheels to turn, turning the lights on and beeping the horn), the prioritized order indicating which one of the several rules is to be allowed to control a unit (Chainani: Figure 7), the order being arranged accordingly to the signals by which they are conditioned (Chainani: Figure 7).

Referring to claim 8, Haugerud and Chainani disclose characterized in that the toy comprises keys integrated in the toy, the keys being capable of activating the icons (Chainani: Figure 2-item 29).

Referring to claim 9, Haugerud and Chainani disclose the toy comprises communication means for receiving commands that can be converted into a program that can be executed by the microprocessor (Chainani: Figure 2, item 40).

Referring to claim 10, Haugerud and Chainani disclose the toy comprises communication means for transmission of commands (Chainani: Figure 1: the personal computer 10 transmits information to the remote control device).

Art Unit: 3714

Referring to claim 11, Haugerud and Chainani disclose the toy comprises communication means for transferring information via a light guide (Chainani: 5:40-67).

Referring to claim 12, Haugerud and Chainani disclose the toy comprises an elongated light guide through which visible light may be transmitted in its longitudinal direction, the light guide being adapted to allow part of the light transmitted to escape through its sides (Chainani: 5:40-67).

Referring to claim 13, Haugerud and Chainani disclose toy building elements with coupling means for mutual coupling (Chainani: Figure 2).

Claims 14-26 correspond in scope to a toy building element set forth for use of the toy building element listed in the claims above and are encompassed by use as set forth in the rejection above.

Response to Arguments

Applicant's arguments filed August 8, 2003 have been fully considered but they are not persuasive.

Applicant argues that Haugerud in view of Chainani fails to disclose the use of icons to communicate to the toy building element's microprocessor that is coupled to the parts. However, Haugerud in view of Chainani disclose using symbols in order to initiate a corresponding function, such as a user selecting a horn graphic that causes a horn sound to go off (Figure 7, 12:65-13:19) and a user selecting graphic objects to control the programmable toy's movement, speed and direction (7:3-6, 8:27-31 and 12:36-64). Therefore, the claimed invention fails to preclude the device of Haugerud in view of Chainani.

Conclusion

Art Unit: 3714

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc


S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700